

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

IN THE MATTER OF:

**Ralph Te Velde
Tee Vee Farm
14744 Archibald Avenue
Chino, CA 91710**

**ORDER NO. R8-2003-0084
FOR
ADMINISTRATIVE CIVIL LIABILITY**

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), is to receive testimony and take evidence on the allegations contained in Complaint No. R8-2003-0044, issued by the Executive Officer at the Santa Ana Board on June 9, 2003, and on the recommendation for the imposition of an assessment of civil liability pursuant to Water Code Section 13385 (c) in the amount of \$10,000. The Board finds as follows:

1. Ralph Te Velde has been operating Tee Vee Farm at 14744 Archibald Avenue, Chino, since 1980. On February 11, 1980, Ralph Te Velde submitted a report of waste discharge for the facility, and was subsequently issued waste discharge requirements (WDRs) under Order No. 80-210 on December 12, 1980. On September 9, 1999, Ralph Te Velde was authorized to discharge wastes in accordance with General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) in the Santa Ana Region, NPDES No. GCA018001, Order No. 99-11.
2. On December 17, 2002, Regional Board staff observed a discharge of runoff from a corral on Tee Vee Farm as a result of staff's routine wet-weather surveillance activities. The corral was being actively used to house cows. The discharge exited the facility along its southerly boundary and entered a roadside ditch on Merrill Avenue. From there, it was conveyed to a storm drain inlet that drained directly into Cucamonga Creek. Cucamonga Creek is a primary tributary to Reach 3 of the Santa Ana River (a navigable water of the United States).
3. The discharge was the result of runoff accumulating in a southerly corral to a depth that allowed it to exit the corral and flow onto an access driveway serving the facility. The corral runoff co-mingled with a stream of runoff draining from the northerly commodity area and then flowed onto Merrill Avenue. At the time of staff's observation, the discharge rate to Merrill Avenue was estimated to be in the range of 20 to 50 gallons per minute.
4. Regional Board staff met with both Ralph and Ken (his son) Te Velde to notify them of the discharge incident. They stated they were unaware of the discharge at that time. Placing a temporary crushed rock ramp across the access driveway and grading a shallow swale to channel the corral runoff in a westerly direction to their western disposal field stopped the discharge.

5. Regional Board staff was unable to determine when the discharge began. Based upon precipitation data from several recording stations in the Chino Basin, it appears that at no time did the Chino area receive sufficient rainfall to match or exceed a 25-year, 24-hour storm event (about 4.5 inches). Rainfall recorded on December 17, 2002 was approximately 1.4 inches in a 24-hour period. Measurable rain prior to December 17 occurred during November 30 - December 1, 2002 when approximately 0.2 inch of rain fell.
6. Prior to the adoption of Order No. 99-11, some dairy facilities were requested by Regional Board staff to develop and implement engineered waste management plans (EWMPs) due to their prior history of discharges in violation of WDRs. On September 5, 1991, Regional Board staff requested that Ralph Te Velde develop an EWMP for his facility. An EWMP was submitted, reviewed by staff, and on November 7, 1996, Ralph Te Velde submitted a letter to the Regional Board certifying that the EWMP had been fully implemented. The EWMP's containment plan included the construction of an earthen berm along the facility's southerly boundary to prevent the discharge of corral runoff from the southerly corrals to Merrill Avenue.
7. Discharges of manured wastewater and runoff have been observed several times since 1991 when Mr. Te Velde was requested to prepare an EWMP. For instance, on March 5 and March 9, 2001, Regional Board staff observed discharges of manured runoff from the southerly corrals into the Merrill Avenue drainage ditch. Regional Board records indicate that, since September 1993, eight non-compliant discharge incidents involving either an actual observed discharge or strong post-incident evidence of a discharge have been documented. Such discharge incidents should not have occurred with an effectively implemented EWMP.
8. By failing to contain the manured runoff from Tee Vee Farm, Ralph Te Velde violated Discharge Specification A.1. and A.3. of the General Waste Discharge Requirements for Concentrated Animal Feeding Operations (Dairies and Related Facilities) in the Santa Ana Region, NPDES No. CAG018001 (Order No. 99-11).
9. Pursuant to Water Code Section 13385(a)(2), those who violate any waste discharge requirement are liable civilly. As provided by Water Code Section 13385(c), the Regional Board can administratively assess a civil liability in an amount not to exceed \$10,000 for each day in which the violation occurs, and \$10 for each gallon discharged that exceeds 1,000 gallons.
10. The maximum liability that the Regional Board could assess administratively for the December 17, 2002 discharge, in accordance with Water Code Section 13385(c), is \$10,000 for the one day of discharge. No liability assessment for the discharge volume has been proposed since the volume of the discharge is unknown. It is unknown when the discharge began and the rate of discharge during the time that the discharge was occurring.
11. An economic analysis was performed to determine what benefit there was for failing to provide adequate containment. Staff's analysis indicates that the economic benefit derived from failure to take appropriate actions to prevent the discharge is less than \$1,300.


July 1, 2003

12. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstances, extent, and gravity of the violation, and with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The factors are analyzed in the Staff Report that accompanied ACL Complaint No. R8-2003-0044, which is incorporated herein by reference.
13. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that pursuant to California Water Code Section 13385, civil liability is imposed on Ralph Te Velde the amount of \$10,000 for the violations cited.

Pursuant to Water Code Section 13320, you may petition the State Water resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of his Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on July 1, 2003.


Gerard J. Thibeault
Executive Officer